

REMARKS

The office action of February 25, 2009, has been carefully considered.

It is noted that claims 1-6 are rejected on the ground of nonstatutory double patenting over claims 28 and 36-40 of copending application No. 10/556,495.

Claims 1, 11, 14 and 17 are objected to for containing various informalities.

Claims 11 and 14 are rejected under 35 U.S.C. 112, second paragraph.

Claims 17, 18 and 21 are rejected under 35 U.S.C. 102(b) over the DE 4332113 to Mohrmann.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) over Mohrmann in view of the patent to Akesaka.

Finally, it is noted that claims 7-10 would be allowable if

rewritten in independent form, claims 11 and 14 would be allowable if amended to overcome the rejection under 35 U.S.C. 112, second paragraph, and claims 12, 13, 15 and 16 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph and to be in independent form.

In view of the Examiner's rejections of the claims, applicant has amended claims 1, 11, 14 and 17.

Applicant has amended the claims to correct the informalities pointed out by the Examiner. Thus, it is respectfully submitted that the objection to claims 1, 11, 14 and 17 is overcome and should be withdrawn.

It is respectfully submitted that the claims now on file particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended the claims to address the instances of indefiniteness pointed out by the Examiner.

In view of these considerations it is respectfully submitted that the rejection of claims 11 and 14 under 35 U.S.C. 112, second paragraph is overcome and should be withdrawn.

It is respectfully submitted that the claims presently on file differ essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references.

To begin with, applicant submits that there is no basis for the double patenting rejection. Claim 28 of US Application No. 10/556,495 deals with "A device for drilling a bore in the ground, comprising a drive system (3) which is connected to a tool head (40), and comprising a plurality of tools (41) which are arranged on the tool head (40) and operate against the face or the base,..." Claims 1-6 of the present application do not deal with a "tool head (40) comprising a plurality of tools (41) which are arranged on the tool head (40)". Thus, it is submitted that the rejection of claims 1-6 on the ground of nonstatutory double patenting over claims 28 and 36-40 of copending application No. 10/556,495, is overcome and should be withdrawn.

The reference of Mohrmann discloses an apparatus for boring holes in the ground. Claim 17 of the present application recites that the drill head 1 and the receiving end 10a of the conveying line 10 are designed so that the loosened material situated prior to the receiving end 10a is mechanically transported into the

conveying line 10 due to the wobbling movement of the drill head
1. A construction that can carry out this function is not disclosed by Mohrmann. Instead, Mohrmann discloses in Column 3, lines 41-42 that the drilled material is transported away through a conveyor pipe 14 pneumatically.

In view of these considerations it is respectfully submitted that the rejection of claims 17, 18 and 21 under 35 U.S.C. 102(b) over the above-discussed reference is overcome and should be withdrawn.

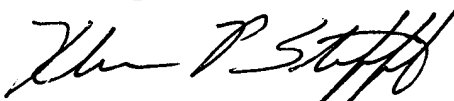
Furthermore, Akesaka adds nothing to Mohrmann so as to suggest the present invention. Therefore, it is respectfully submitted that the rejection of claims 19 and 20 under 35 U.S.C. 103(a) is overcome and should be withdrawn.

Reconsideration and allowance of the present application are respectfully requested.

Any additional fees or charges required at this time in connection with this application may be charged to Patent and

Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450, on May 26, 2009.

By: 
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Date: May 26, 2009